

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

COULTER JAMES MCGRAW,

Plaintiff,

v.

**QUAD/GRAPHICS, INC. and
IVIE & ASSOCIATES, LLC,**

Defendants.

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CIVIL ACTION NO. 4:21-CV-00107

INDEX OF PLEADINGS FILED IN STATE COURT

Exhibit	Document Name	Date Filed
1	State Court Docket Sheet	
2	Plaintiff's Original Petition and Jury Demand	12/22/20
3	Citations	01/11/21
4	Defendants' Original Answer and Defenses	01/29/21

Respectfully submitted,

By: /s/ Kristin Snyder Higgins

KRISTIN SNYDER HIGGINS

Texas State Bar No. 24046880

kristin.higgins@ogletree.com

MOLLY ANN LAWRENCE

Texas State Bar No. 24083365

mollyann.lawrence@ogletree.com

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

8117 Preston Road, Suite 500

Dallas, Texas 75225

(214) 987-3800 (Phone)

(214) 987-3927 (Fax)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of February, 2021, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Kristin Snyder Higgins
KRISTIN SNYDER HIGGINS

45916185.1

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New Civil Search](#) [Refine Search](#) [Back](#)
Location : ----- All District Courts ----- [Help](#)**REGISTER OF ACTIONS****CASE NO. 20-10671-362****Coulter James McGraw vs. Quad/Graphics Inc. and Ivie & Associates, LLC**§
§
§
§
§Case Type: **Termination**Date Filed: **12/22/2020**Location: **362nd Judicial District Court**Judicial Officer: **McFarling, Bruce**File Custody/Location: **District Clerk's Office****PARTY INFORMATION**

Defendant	Ivie & Associates, LLC	Lead Attorneys
Defendant	Quad/Graphics, Inc.	
Plaintiff	McGraw, Coulter James	Jonathan J. Walters <i>Retained</i> 219 South Main Street Suite 301 Fort Worth, TX 76104 817-924-8600(W) 817-924-8603(F)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS			
12/22/2020	Plaintiff's Original Petition <i>and Request for Disclosure</i>		
12/23/2020	Jury fee paid <i>(This entry only represents the payment of the jury fee - not a document filed with the clerk.)</i>		
12/23/2020	Citation <i>e-served in envelope #49203670</i>		
	Quad/Graphics, Inc.	Served	01/08/2021
		Returned	01/11/2021
	Ivie & Associates, LLC	Served	01/08/2021
		Returned	01/11/2021
01/11/2021	Service Returned <i>- Citation</i> Party: Ivie & Associates, LLC		
01/11/2021	Service Returned <i>- Citation</i> Party: Quad/Graphics, Inc.		
01/29/2021	Defendant's Original Answer <i>and Defenses</i>		

FINANCIAL INFORMATION

	Plaintiff McGraw, Coulter James		
	Total Financial Assessment		333.00
	Total Payments and Credits		333.00
	Balance Due as of 01/29/2021		0.00
12/23/2020	Transaction Assessment		333.00
12/23/2020	TexFile Payment	Receipt # 2020-34015	McGraw, Coulter James (333.00)

CAUSE NO. 20-10671-362

COULTER JAMES MCGRAW

Plaintiff

vs.

QUAD/GRAPHICS INC. and
IVIE & ASSOCIATES, LLC*Defendants*§
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IN THE DISTRICT COURT

____ JUDICIAL DISTRICT

DENTON COUNTY, TEXAS

PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW Coulter James McGraw, Plaintiff, complaining of Quad/Graphics Inc. and Ivie & Associates, LLC, hereinafter referred to as Defendants, and for cause of action, Plaintiff would show the Court the following:

I.**DISCOVERY CONTROL PLAN**

1.1 Plaintiff intends to conduct discovery under Level 3.

II.**CLAIMS FOR RELIEF**

2.1 Plaintiff seeks monetary relief over \$250,000.00 but not more than \$1,000,000.00.

III.**PARTIES**

3.1 Plaintiff Coulter James McGraw is an individual and resident of Denton County, Texas. The last four digits of his social security number are 5022.

3.2 Defendant Quad/Graphics Inc. is a corporation duly authorized to do business in the State of Texas. Defendant may be served with process through its registered agent, CSC-Lawyers Incorporating Service Company, 211 E. 7th Street, Suite 620, Austin, Texas 78701.s

3.3 Defendant Ivie & Associates, LLC is a limited liability company duly authorized to do business in the State of Texas. Defendant may be served with process through its registered agent, Corporation Service Company dba CSC-Lawyers Incorporated, 211 E. 7th Street, Suite 620, Austin, Texas 78701.

IV.

VENUE

4.1 Venue is proper in Denton County, Texas because this is where the Defendant does business and the cause of action occurred here.

V.

FACTS

5.1 Plaintiff was employed by Defendants Quad/Graphics, Inc. and Ivie & Associates in the Flower Mound, Texas office. He started working for Defendants in August of 2019. In January 2020, Plaintiff met with Human Resources (HR) and made a formal complaint that one of his coworkers, Emily Shasteen, a female, was being sexually harassed by a male supervisor, Daniel Owens, in the Defendant's Seattle office.

5.2 After that meeting, Plaintiff was retaliated against. He was written up for job performance for the first time after the meeting. On January 23, 2020, Plaintiff complained of retaliation in an email, but nothing was done. Specifically, he complained of being ordered to not complete jobs and then would get reprimanded for not completing the same jobs. He was kicked off projects in the Seattle area and relocated to other projects. Plaintiff continued to be retaliated

against until he was terminated on March 3, 2020. The firing was pretextual. Plaintiff was fired in retaliation for making a formal complaint on behalf of a co-worker.

VI.

CAUSES OF ACTION

Retaliation under TCHRA

6.1 Plaintiff re-alleges and incorporates by reference all allegations in all preceding paragraphs.

6.2 As described above, Plaintiff was terminated in retaliation for performing a protected activity, making a formal complaint on behalf of a co-worker. He was also terminated for complaining of retaliation.

6.3 Defendant violated the TCHRA.

6.4 Defendant's violation of the TCHRA has directly and approximately caused damage to Plaintiff, for which he hereby sues Defendant.

VII.

DAMAGES

7.1 Plaintiff has suffered damages, including but not limited to back pay, front pay, past and future mental anguish, and attorney's fees. Plaintiff is also entitled to punitive damages.

7.2 By reason of the above and foregoing, Plaintiff has been damaged in a sum in excess of minimum jurisdictional limits of this Court.

VIII.

ATTORNEY'S FEES

8.1 Plaintiff has been required to engage the services of the undersigned attorney and has agreed to pay the undersigned attorney a reasonable fee for his legal services. Plaintiff is

entitled to recover attorney's fees against Defendant through the trial phase of this action, and, if necessary, through the appellate process.

IX.

CONDITIONS PRECEDENT

9.1 All conditions precedent to the bringing of the present litigation, such as the filing of a charge and a notice of right to sue letter being obtained, have occurred or have been performed. Attached as Exhibit A is the Notice of Complainant's Right to File Civil Action obtained from the Texas Workforce Commission.

X.

COURSE AND SCOPE

10.1 The actions of Defendant described within this Petition were committed by its employees and agents who in turn were acting in the course and scope of its employment.

XI.

JURY DEMAND

11.1 In accordance with Rule 216 of the Texas Rules of Civil Procedure, Plaintiff requests a jury trial and that this case be set on the Court's jury docket. In support of this Petition, Plaintiff would show that the appropriate jury fee is being paid to the clerk of the Court with the filing of this Petition.

XII.

REQUEST FOR DISCLOSURE PURSUANT TO RULE 194

12.1 Pursuant to Rule 194, you are requested to disclose, within fifty days of service of this request, the information or material described in Rule 194.2.

XIII.

PRAYER

13.1 WHEREFORE, premises considered, Plaintiff requests that the Defendant be cited to appear and answer and that on final trial Plaintiff has:

- a. Judgment against Defendant for damages in an amount in excess of the minimum jurisdictional limits of the Court;
- b. Prejudgment and post-judgment interest as provided by law;
- c. Costs of suit; and
- d. Such other and further relief to which Plaintiff may be entitled in law or in equity.

Respectfully submitted,

THE JOECKEL LAW OFFICE

/s/ David B. Joeckel, Jr.

David B. Joeckel, Jr.
State Bar No. 10669700

Jonathan J. "Jack" Walters
State Bar No. 24096307

219 South Main Street, Suite 301
Fort Worth, Texas 76104
(817) 924-8600
(817) 924-8603 facsimile
dbj@joeckellaw.com
jack@joeckellaw.com

ATTORNEYS FOR PLAINTIFF



Notice of Service of Process

null / ALL
Transmittal Number: 22539980
Date Processed: 01/11/2021

Primary Contact: Laural Albrechtson
Quad/Graphics, Inc.
N61W23044 Harrys Way
Sussex, WI 53089-3995

Electronic copy provided to: Alex Pyke

Entity: Ivie & Associates, LLC
Entity ID Number 2979194

Entity Served: Ivie & Associates, LLC

Title of Action: Coulter James McGraw vs. Quad/Graphics Inc.

Document(s) Type: Citation/Petition

Nature of Action: Wrongful Termination

Court/Agency: Denton County District Court, TX

Case/Reference No: 20-10671-362

Jurisdiction Served: Texas

Date Served on CSC: 01/08/2021

Answer or Appearance Due: 10:00 a.m. on the first Monday following the expiration of 20 days after service

Originally Served On: CSC

How Served: Personal Service

Sender Information: David B. Joeckel, Jr.
817-924-8600

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC

251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

1-7-2021
1:00 PM

1-8-2021

CAUSE NO. 20-10671-362

COULTER JAMES MCGRAW § IN THE DISTRICT COURT
§
Plaintiff §
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vs. § ____ JUDICIAL DISTRICT
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- d. Such other and further relief to which Plaintiff may be entitled in law or in equity.

Respectfully submitted,

THE JOECKEL LAW OFFICE

/s/ David B. Joeckel, Jr.

David B. Joeckel, Jr.
State Bar No. 10669700

Jonathan J. "Jack" Walters
State Bar No. 24096307

219 South Main Street, Suite 301
Fort Worth, Texas 76104
(817) 924-8600
(817) 924-8603 facsimile
dbj@joeckellaw.com
jack@joeckellaw.com

ATTORNEYS FOR PLAINTIFF

Texas Workforce Commission

A Member of Texas Workforce Solutions

Bryan Daniel, Chairman
Commissioner Representing
the Public

Julian Alvarez
Commissioner Representing
Labor

Aaron Demerson
Commissioner Representing
Employers

Edward Serna
Executive Director

November 17, 2020

NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION

Coulter J. McGraw
c/o Jonathan J. Walters
The Joeckel Law Office
219 S. Main Street, Ste. 301
Fort Worth, TX 76104

Re: *Coulter J. McGraw v. Quad Graphics Inc./Ivie & Associates, Inc.*
EEOC Complaint # 450-2020-04296

Dear Coulter J. McGraw:

The Texas Workforce Commission Civil Rights Division (TWCCRD) has received and carefully reviewed your recent request to issue the Notice of Right to File a Civil Action (NRTFCA) on the above referenced charge. According to the documentation provided, 180 days has not passed since the filing of this charge.

As stated in Texas Labor Code Chapter 21 Sec. 21.253, our agency may issue a notice to file civil action in the event that the executive director certifies that administrative processing of the complaint cannot be completed before the 181st day after the date the complaint was filed.

This is to certify that our office will be unable to complete an investigation before the 181st day and thus may issue a Notice of Right to File Civil Action.

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.

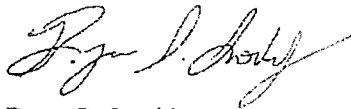
If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to Chapter 21 of the Texas Labor Code.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Coulter J. McGraw
November 17, 2020
Page 2

If you have any questions, please contact our office at (512) 463-2642 or (888) 452-4778.

Sincerely,



Bryan D. Snoddy
Director, Civil Rights Division

RETAIN ENVELOPE TO VERIFY DATE RECEIVED

Copy to:
Quad Graphics Inc./Ivie & Associates, Inc.
c/o: Joel Quadracci
HR Director
N61 W23044 Harry's Way
Sussex, WI 53089

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 20-10671-362**TO: Ivie & Associates, LLC through Registered Agent, Corporation Service Company dba CSC-Lawyers Incorporated, at 211 E. 7th Street, Suite 620, Austin, TX 78701.**

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	362nd Judicial District Court 1450 E. McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	20-10671-362
Date of Filing:	December 22, 2020
Document:	Plaintiff's Original Petition and Request for Disclosure
Parties in Suit:	Coulter James McGraw; Quad/Graphics, Inc.; Ivie & Associates, LLC
Clerk:	David Trantham, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	David B. Joeckel, Jr. 219 South Main Street, Suite 301, Fort Worth, TX 76104

Issued under my hand and seal of this said court on this the 23rd day of December, 2020.

David Trantham, District Clerk
Denton, Denton County, Texas

BY: Raquel Gonzalez, Deputy
Raquel Gonzalez

Service Return

Came to hand on the _____ day of _____, 20____, at _____ m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named _____ in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition and Request for Disclosure, at _____.

Service Fee: \$ _____ Sheriff/Constable
_____ County, Texas

Service ID No. _____ Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20____

Notary Public

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 20-10671-362**TO: Quad/Graphics Inc. through Registered Agent CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701.**

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_____ Notary Public



Notice of Service of Process

null / ALL
Transmittal Number: 22540121
Date Processed: 01/11/2021

Primary Contact: Laural Albrechtson
Quad/Graphics, Inc.
N61W23044 Harrys Way
Sussex, WI 53089-3995

Electronic copy provided to: Alex Pyke

Entity: Quad/Graphics, Inc.
Entity ID Number 3250589

Entity Served: Quad/Graphics Inc.

Title of Action: Coulter James McGraw vs. Quad/Graphics Inc.

Document(s) Type: Citation/Petition

Nature of Action: Wrongful Termination

Court/Agency: Denton County District Court, TX

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251 Little Falls Drive, Wilmington, Delaware 19808-1674 (888) 690-2882 | sop@cscglobal.com

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COULTER JAMES MCGRAW

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- a. Judgment against Defendant for damages in an amount in excess of the minimum jurisdictional limits of the Court;
- b. Prejudgment and post-judgment interest as provided by law;
- c. Costs of suit; and
- d. Such other and further relief to which Plaintiff may be entitled in law or in equity.

Respectfully submitted,

THE JOECKEL LAW OFFICE

/s/ David B. Joeckel, Jr.

David B. Joeckel, Jr.
State Bar No. 10669700

Jonathan J. "Jack" Walters
State Bar No. 24096307

219 South Main Street, Suite 301
Fort Worth, Texas 76104
(817) 924-8600
(817) 924-8603 facsimile
dbj@joeckellaw.com
jack@joeckellaw.com

ATTORNEYS FOR PLAINTIFF

Texas Workforce Commission

A Member of Texas Workforce Solutions

Bryan Daniel, Chairman
Commissioner Representing
the Public

Julian Alvarez
Commissioner Representing
Labor

Aaron Demerson
Commissioner Representing
Employers

Edward Serna
Executive Director

November 17, 2020

NOTICE OF COMPLAINANT'S RIGHT TO FILE CIVIL ACTION

Coulter J. McGraw
c/o Jonathan J. Walters
The Joeckel Law Office
219 S. Main Street, Ste. 301
Fort Worth, TX 76104

Re: *Coulter J. McGraw v. Quad Graphics Inc./Ivie & Associates, Inc.*
EEOC Complaint # 450-2020-04296

Dear Coulter J. McGraw:

The Texas Workforce Commission Civil Rights Division (TWCCRD) has received and carefully reviewed your recent request to issue the Notice of Right to File a Civil Action (NRTFCA) on the above referenced charge. According to the documentation provided, 180 days has not passed since the filing of this charge.

As stated in Texas Labor Code Chapter 21 Sec. 21.253, our agency may issue a notice to file civil action in the event that the executive director certifies that administrative processing of the complaint cannot be completed before the 181st day after the date the complaint was filed.

This is to certify that our office will be unable to complete an investigation before the 181st day and thus may issue a Notice of Right to File Civil Action.

The above-referenced case was processed by the United States Equal Employment Opportunity Commission or a local agency. Pursuant to Sections 21.252 and 21.254 of the Texas Labor Code, this notice is to advise you of your right to bring a private civil action in state court in the above-referenced case. **YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.**

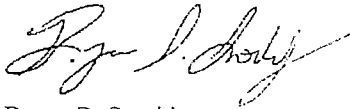
If your case has been successfully resolved by the U. S. Equal Employment Opportunity Commission or another agency through a voluntary settlement or conciliation agreement, you may be prohibited by the terms of such an agreement from filing a private civil action in state court pursuant to Chapter 21 of the Texas Labor Code.

The United States Supreme Court has held in *Kremer v. Chemical Construction Corporation*, 456 U.S. 461 (1982), that a federal district court must generally dismiss a Title VII action involving the same parties and raising the same issues as those raised in a prior state court action under Chapter 21 of the Texas Labor Code. Therefore, filing a lawsuit in state court based on the issuance of this notice of right to file a civil action may prevent you from filing a lawsuit in federal court based on Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e - et seq.

Coulter J. McGraw
~~November 17, 2020~~
Page 2

If you have any questions, please contact our office at (512) 463-2642 or (888) 452-4778.

Sincerely,



Bryan D. Snoddy
Director, Civil Rights Division

RETAIN ENVELOPE TO VERIFY DATE RECEIVED

Copy to:
Quad Graphics Inc./Ivie & Associates, Inc.
c/o: Joel Quadracci
HR Director
N61 W23044 Harry's Way
Sussex, WI 53089

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 20-10671-362**TO: Ivie & Associates, LLC through Registered Agent, Corporation Service Company dba CSC-Lawyers Incorporated, at 211 E. 7th Street, Suite 620, Austin, TX 78701.**

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	362nd Judicial District Court 1450 E. McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	20-10671-362
Date of Filing:	December 22, 2020
Document:	Plaintiff's Original Petition and Request for Disclosure
Parties in Suit:	Coulter James McGraw; Quad/Graphics, Inc.; Ivie & Associates, LLC
Clerk:	David Trantham, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	David B. Joeckel, Jr. 219 South Main Street, Suite 301, Fort Worth, TX 76104

Issued under my hand and seal of this said court on this the 23rd day of December, 2020.

David Trantham, District Clerk
Denton, Denton County, Texas

BY: Raquel Gonzalez, Deputy
Raquel Gonzalez

Service Return

Came to hand on the _____ day of _____, 20____, at _____m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named _____ in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition and Request for Disclosure, at _____.

Service Fee: \$ _____ Sheriff/Constable
_____ County, Texas

Service ID No. _____ Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20____

Notary Public

CITATION –TRC 99 and 106

THE STATE OF TEXAS

COUNTY OF DENTON

CAUSE NO. 20-10671-362**TO: Quad/Graphics Inc. through Registered Agent CSC-Lawyers Incorporating Service Company, at 211 E. 7th Street, Suite 620, Austin, TX 78701.**

Notice to defendant: You have been sued. You may employ an attorney. If you, or your attorney, do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the first Monday following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Court:	362nd Judicial District Court 1450 E. McKinney, 3rd Floor, Denton, TX 76209
Cause No.:	20-10671-362
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Clerk:	David Trantham, District Clerk 1450 E. McKinney, Suite 1200, Denton, TX 76209
Party or Party's Attorney:	David B. Joeckel, Jr. 219 South Main Street, Suite 301, Fort Worth, TX 76104

Issued under my hand and seal of this said court on this the 23rd day of December, 2020.

David Trantham, District Clerk
Denton, Denton County, Texas

BY: Raquel Gonzalez, Deputy
Raquel Gonzalez

Service Return

Came to hand on the _____ day of _____, 20____, at _____ m., and executed on the _____ day of _____, 20____, at _____ M by delivering to the within named

_____ in person a true copy of this citation, with attached copy(ies) of the Plaintiff's Original Petition and Request for Disclosure, at _____.

Service Fee: \$ _____ Sheriff/Constable
_____ County, Texas

Service ID No. _____ Deputy/Authorized Person

VERIFICATION

On this day personally appeared _____ known to me to be the person whose name is subscribed on the foregoing instrument and who has stated: upon penalty of perjury, I attest that the foregoing instrument has been executed by me in this cause pursuant to the Texas Rules of Civil Procedure. I am over the age of eighteen years and I am not a party to or interested in the outcome of this suit, and have been authorized by the Denton County Courts to serve process.

Subscribed and sworn to before me on this the _____ day of _____, 20____

Notary Public

CAUSE NO. 20-10671-362

COULTER JAMES MCGRAW,	§	IN THE DISTRICT COURT
	§	
Plaintiff,	§	
	§	
v.	§	DENTON COUNTY, TEXAS
	§	
QUAD/GRAPHICS, INC. and	§	
IVIE & ASSOCIATES, LLC,	§	
	§	
Defendants.	§	362ND JUDICIAL DISTRICT

DEFENDANTS' ORIGINAL ANSWER AND DEFENSES

Defendants Quad/Graphics, Inc. ("Quad/Graphics") and Ivie & Associates, LLC ("Ivie") (collectively, "Defendants") answer Plaintiff Coulter James McGraw's ("Plaintiff") Original Petition as follows:

I. GENERAL DENIAL

Pursuant to Texas Rule of Civil Procedure 92, Defendants deny each and every allegation contained in Plaintiff's Original Petition ("Petition") and any amendment or supplement thereto, and demand strict proof thereof by a preponderance of the credible evidence. With respect to any claims by Plaintiff for exemplary damages, Defendants demand strict proof by clear and convincing evidence.

II. DEFENSES

Without assuming any burden of proof that would otherwise rest with Plaintiff, Defendants assert the following defenses as follows:

1. With respect to some or all of Plaintiff's claims, the Petition fails to state a claim upon which relief may be granted.
2. At all times during Plaintiff's employment, Plaintiff was employed at-will and could be discharged with or without notice and with or without cause.

3. Plaintiff's claims are barred, in whole or in part, to the extent they exceed the scope or are inconsistent with any charge(s) of discrimination Plaintiff filed with the EEOC or TWC.

4. Plaintiff did not engage in the requisite protected conduct necessary to establish a retaliation claim.

5. If any improper, illegal, discriminatory, or retaliatory actions were taken by any of Defendants' employees against Plaintiff (which Defendants deny), they were outside the course and scope of that employee's employment, contrary to Defendants' policies, and were not ratified, confirmed, or approved by Defendants. Thus, any such actions cannot be attributed or imputed to Defendants.

6. Plaintiff's claims fail because Defendants exercised reasonable care to prevent and remediate promptly any unlawful behavior and Plaintiff unreasonably failed to take advantage of any preventative or corrective opportunities provided by Defendants or to avoid harm otherwise.

7. All employment decisions made regarding or affecting Plaintiff were based upon legitimate, non-discriminatory, and non-retaliatory reasons.

8. Plaintiff's claims are barred, in whole or in part, because Defendants would have taken the same action in the absence of any alleged impermissible motivating factor(s).

9. Plaintiff's damages, if any, are barred in whole or in part by the doctrines of estoppel, unclean hands, and/or after-acquired evidence.

10. Without conceding Plaintiff has suffered any damages because of any alleged wrongdoing by Defendants, Plaintiff has failed to mitigate or minimize the alleged damages and is therefore barred, in whole or in part, from the recovery of damages.

11. Defendants are entitled to an offset for any earnings since Plaintiff's employment ended, including payments received from insurance carriers, workers' compensation benefits, or unemployment compensation benefits.

12. Plaintiff's claims for compensatory and punitive/exemplary damages are capped or limited by applicable law, including Chapter 41 of the Texas Civil Practice and Remedies Code and common law.

13. Plaintiff's claims for exemplary damages are barred because the alleged acts or omissions of Defendants, even if proven, do not rise to a level required to sustain an award of exemplary damages and do not evidence malicious, reckless or fraudulent intent to deny Plaintiff's protected rights, and are not so wanton and willful as to support an award of exemplary damages.

14. Plaintiff's claims for exemplary damages are barred to the extent that the imposition of exemplary damages would constitute a denial of due process under the United States Constitution and the Constitution of the State of Texas.

15. Defendants engaged in good faith efforts to comply with all applicable laws. Moreover, the conduct complained of by Plaintiff, if performed or carried out, was performed or carried out in good faith based upon reasonable grounds for believing such conduct was not in violation of state or federal law and, therefore, Plaintiff fails to state a claim for punitive or exemplary damages.

16. Defendants specifically reserve the right to assert any other appropriate defenses, including affirmative defenses, to Plaintiff's claims as the need for such defenses becomes known.

III. PRAYER FOR RELIEF

WHEREFORE, Defendants respectfully request that this Court dismiss Plaintiff's Original Petition with prejudice, and that Defendants be awarded their costs, attorneys' fees, and any other relief to which Defendants may be entitled.

Respectfully submitted,

By: /s/ Kristin Snyder Higgins
KRISTIN SNYDER HIGGINS
Texas State Bar No. 24046880
kristin.higgins@ogletree.com
MOLLY ANN LAWRENCE
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OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.
8117 Preston Road, Suite 500
Dallas, Texas 75225
(214) 987-3800 (Phone)
(214) 987-3927 (Fax)

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

This is to certify that on January 29, 2021, I electronically transmitted the foregoing document to the Clerk of Court using the electronic system of filing, which will transmit a Notice of Electronic Filing to all counsel of record.

/s/ Kristin Snyder Higgins
KRISTIN SNYDER HIGGINS

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